

OPINION
46-124

January 22, 1946 (OPINION)

HIGHWAYS

RE: Trucks-License For

At our conference of the other day, we discussed the interpretation of subsections 3 and 4 of section 39-0453 of the North Dakota Revised Code of 1943, as amended by chapter 247 of the 1945 Session Laws, under the following factual situation:

The Dakota Power Company owns and operates a truck or trucks used to transport tools, equipment, and material in the performance of the lawful occupation of the company, but incidently, once in a while, uses the same truck to transport merchandise within the city, or within two miles of the corporate limits thereof. Under those circumstances, there is no question that such truck should be licensed under schedule B of chapter 247 of the 1945 Session Laws, and the mere fact that the owner of the truck uses it incidentally or occasionally to transport merchandise would make no difference as long as the truck comes under the classification contained in subsections 3 and 4 of the statute. For instance, the truck in question could deliver a frigidaire within the corporate limits of the city of Bismarck, or within two miles thereof, but could not transport such frigidaire from Bismarck to Mandan. It must be observed, however, that it is possible that the truck would also come within the terms of subsection 2 of this statute. For instance, if the owner of the truck sold a frigidaire, or some other appliance, to a farmer out in the country, I believe such truck, although licensed under schedule B would be authorized to deliver such frigidaire, or appliance, to such farmer under the terms of subsection 2 of the act.

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